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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,578	10/30/2003	Gary R. Buhrman	7278-113	7679

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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT PAPER NUMBER

3714

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,578	<b>Applicant(s)</b> BUHRMAN ET AL. <i>CH</i>	
	<b>Examiner</b> Urszula M Cegielnik	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-18 is/are rejected.
- 7) ☒ Claim(s) 6-8 and 19-22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/30/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION.*****Election/Restrictions***

The applicant's election of Group I with traverse (filed 09 August 2004) is hereby acknowledged. An action on the merits of claims 1-22 follows.

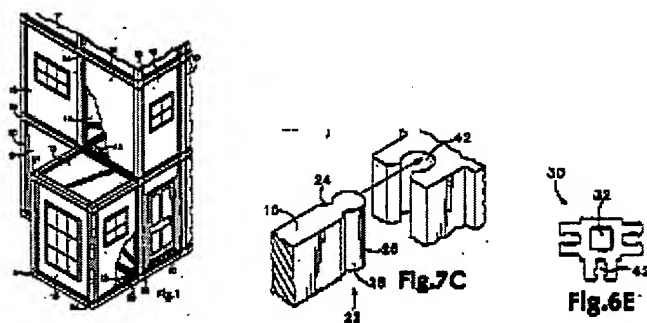
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, 10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunts.



Hunts discloses a modular toy building kit comprising a plurality of building panels (10), each having a circumference (*the circumference being the cross-section of element encompassing reference numeral 28, see Figure 7C, for example*) with edges (*the portion encompassing reference numeral 24*); a plurality of tabs (28), one tab (28) defined on each edge (*the portion encompassing reference numeral 24*) of each building panel (10); a plurality of

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connectors (30), each connector (30) having a length (*see top of Figure 4, for example*) and having slots (42) defined along the length; and each slot (42) is sized to slidably receive and temporarily retain a tab (28) of a building panel (10); the panel (10) is rectangular (*see Figure 1, for example*); the connector (30) has a height and defines four lengthwise sides (*see Figure 6F, for example*) and one slot (42) is defined along the length of the side; a connector (30) and panel (10) set comprising a plurality of panels (10), the tab is a T-style tab (*see Figures 7A-7C*); each panel (10) having edges (*the portion encompassing reference numeral 24*); the panels are formed of plastic (e.g. *rigid sheet material of plastic*); a plurality of connectors (30), each connector (30) having sides (*the portion encompassing reference numeral 40*) forming a standard height (e.g. *a standard height corresponding to a panel 10*); each edge of the panel (10) is engageable to a side (*the portion encompassing reference numeral 40*) of any connector (30) (*see Figure 3, for example*).

Claims 13, 14, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Engle.

Engle discloses a plurality of panels (*see Figures 2A-2F*), each panel having edges (*the peripheral portion surrounding elements of Figures 2A, 2B, 2E, and 2F, for example*); a plurality of connectors (*Figures 3E and 3F, for example*), each connector (*see Figures 3E and 3F, for example*) having sides forming a standard height (*the connectors have a height (length) that is either equal to the edges of the shape elements or shorter than the edge lengths of the shape elements*); each edge of each panel is engageable to a side of any connector

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(see Figures 1A, 3E, and 3F, for example); the height of the connector differs from the length and the width of each said panel (paragraph 0072, lines 34-35); a stack of the connectors forms a height with joints between the connectors and a stack of panels forms a height with joints between the panels and the joints of the stacks of connectors are not equal to the heights of the joints of the stack of the panels (*the reference discloses that one than one connector may be used to connect two (adjacent) panels together, and that the connectors may be of equal lengths of the panels or shorter as stated at paragraph 0072, lines 34-37, since it has all of the structure, it is capable of forming a height of the stack of connectors not being equal to the height of the stack of panels*); each edge of each panel has a tab formed therewith, the connector sides define slots for receiving and selectively retaining the tabs (see Figures 3E and 7A, for example); the tab is a T-style tab (see Figure 2D, showing a cross section of an edge of a panel).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engle.

Engle discloses the claimed invention except for the stack of connectors comprising three connectors, and the connectors having a standard height of

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thirteen and a half inches and the panels including rectangular panels having lengths and widths in multiples of eighteen inches.

Engle teaches that more than one connector may be used to join two adjacent shape elements (paragraph 0072, lines 36-37).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the number of connectors being three as taught by Engle, since such a modification would permit a greater variety of structures to be built.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunts in view of Daugherty et al.

Hunts discloses the claimed invention except for wheels attachable to the base.

Daugherty et al. disclose a modular storage assembly which includes wheels attached to a base.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wheels attachable to the base as taught by Daugherty et al., since such a modification would allow the storage assembly to be easily transportable from one place to another.

***Allowable Subject Matter***

Claims 6-8, and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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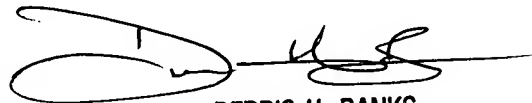
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

**The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3714



DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
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